

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KENNETH COX,

Plaintiff,

v.

Case No. 10-14561

FORREST DOTSON,

HON. AVERN COHN

Defendant.

ORDER OVERRULING PLAINTIFF'S OBJECTIONS (Doc. 14)
AND
ADOPTING REPORT AND RECOMMENDATION (Doc. 13)
AND
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. 10)
AND
DISMISSING CASE

I.

This is a prisoner civil rights case under 42 U.S.C. § 1983. Plaintiff Kenneth Cox, currently confined at the Chippewa Correctional Facility in Kincheloe, Michigan, claims that he was denied proper access to prescribed insulin injections for his diabetic condition while confined at the Mound Correctional Facility in Detroit, Michigan. Although plaintiff initially named the Michigan Department of Corrections Director Patricia Caruso, Warden Kenneth Romanowski, Assistant Deputy Warden D. Steward, an unidentified first shift commander, and Forrest Dotson (Dotson)¹ as defendants, the Court sua sponte dismissed all of the defendants except Dotson for failure to allege any facts showing personal involvement. (Doc. 4). The matter was then referred to a magistrate judge for pre-trial

¹Dotson is an employee of the Michigan Department of Corrections and a Lieutenant at the Mound Correctional Facility during the relevant time.

proceedings, and before whom Dotson filed a motion for summary judgment. The magistrate judge issued a report and recommendation (MJRR), recommending that the motion be granted. Before the Court are plaintiff's objections to the MJRR. For the reasons that follow, the objections will be overruled, the MJRR will be adopted, Dotson's motion will be granted, and the case will be dismissed.

II.

A district court must conduct a de novo review of the parts of a magistrate judge's report and recommendation to which a party objects. 28 U.S.C. § 636(b)(1). The district "court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate" judge. Id. The requirement of de novo review "is a statutory recognition that Article III of the United States Constitution mandates that the judicial power of the United States be vested in judges with life tenure." United States v. Sami, 754 F.2d 670, 672 (6th Cir. 1985).

A general objection, or one that merely restates the arguments previously presented, is not sufficient to alert the court to alleged errors on the part of the magistrate judge. An "objection" that does nothing more than state a disagreement with a magistrate judge's suggested resolution, or simply summarizes what has been presented before, is not an objection as that term is used in this context. Howard v. Sec'y of Health and Human Servs., 932 F.2d 505, 508 (6th Cir. 991)

III.

Here, the magistrate judge recommends that Dotson's motion for summary judgment be granted because plaintiff has failed to show a genuine issue of material fact as to whether Dotson was deliberately indifferent to plaintiff's serious medical need. The

Court agrees. As the magistrate judge pointed out, plaintiff has simply argued that the evidence will show deliberate indifference and Dotson's culpability. However, plaintiff fails to provide any factual support for his contentions. Moreover, Dotson's affidavit details his limited involvement, which consisted of him informing plaintiff on one occasion that he would have to return to his housing unit and wait for when the diabetic medical line was available for prisoners, i.e. when health care staff and an officer were present.

Additionally, while plaintiff says that receiving his medication was an ongoing problem at Mound, he provides no evidence that Dotson was responsible for any ongoing problem, or that plaintiff was ever denied insulin or otherwise harmed by a failure to receive insulin. Nothing in plaintiff's objections, in which he simply reasserts the allegations in the complaint and arguments presented to the magistrate judge, convince the Court that the magistrate erred in its analysis of the record or in its recommendation.

Accordingly, plaintiff's objections are **OVERRULED**. The findings and conclusions of the magistrate judge are **ADOPTED** as the findings and conclusions of the Court. The City of Detroit's motion to dismiss is **GRANTED**. Dotson's motion for summary judgment is **GRANTED**.

This case is **DISMISSED**.

SO ORDERED.

Dated: January 6, 2012

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, January 6, 2012, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160